

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

TRUSTEES OF THE TILE, MARBLE &
TERRAZZO INSURANCE TRUST FUND, et al.,

Plaintiffs,

v.

Case No. 06-CV-14133-DT

CALIDAD, L.L.C., ZACHARY PYLE, individually
and d/b/a Calidad, L.L.C. and DAVID
BUCKSHAW, individually and d/b/a Calidad,
L.L.C.,

Defendants.

**ORDER DENYING “PLAINTIFFS’ EX-PARTE MOTION AND
VERIFICATION FOR ALTERNATIVE SERVICE”**

Plaintiffs filed an *ex parte* motion for alternative service on December 8, 2006, asking the court to permit service of the summons and complaint upon Defendants by first class mail to their last known business address or by affixing a copy of the aforementioned documents to the front door of the same. The court has reviewed the affidavit of the process server and finds that Plaintiffs have not yet made a sufficient showing that service of process cannot reasonably be made as provided by Federal Rule of Civil Procedure 4. The affidavit shows that Defendants were not present at their business address when service was attempted. (Pl.’s Ex. 1.) The affidavit further provides that, to date, service has only been attempted twice, which hardly displays an exhaustive effort. (*Id.*) More troubling, however, is the fact that neither one of these two attempts were made during regular business hours. The first attempt was made at 2:35

p.m. on Saturday, November 25, 2006, and the second attempt was made at 9:10 p.m. on Thursday, November 30, 2006. (*Id.*) Because Plaintiffs have not yet attempted to serve Defendants during regular business hours, the court is not persuaded that service upon Defendants cannot reasonably be completed in the normal manner. Accordingly,

IT IS ORDERED that "Plaintiffs' Ex-Parte Motion and Verification for Alternate Service" [Dkt. #5] is DENIED WITHOUT PREJUDICE. If, after more diligent efforts, Plaintiffs are still unable to serve Defendants, Plaintiffs may file another motion detailing their efforts and requesting alternate service.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: December 20, 2006

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, December 20, 2006, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522